

AMENDED IN ASSEMBLY AUGUST 14, 2008

AMENDED IN ASSEMBLY JULY 2, 2008

AMENDED IN ASSEMBLY JUNE 10, 2008

AMENDED IN SENATE APRIL 10, 2007

**SENATE BILL**

**No. 1016**

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**Introduced by Senator Wiggins**

February 23, 2007

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An act to amend Sections 40183, 40184, ~~41780~~, 41783, 41820.6, 41821, 41850, 42921, and 42926 of, to amend the headings of Article 4 (commencing with Section 41825) and Article 5 (commencing with Section 41850) of Chapter 7 of Part 2 of Division 30 of, to add Sections 40127, ~~40144~~ *40145*, 40150.1, 41780.05, 42921.5, and 42927 to, and to repeal and add Section 41825 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 1016, as amended, Wiggins. Diversion: compliance: per capita disposal rate.

(1) The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components. Those entities are required to divert, from disposal or transformation, 50% of the solid waste through source reduction, recycling, and composting subject to the element, except as specified. A city, county, or regional agency is required to submit an annual report to the board summarizing its progress in reducing solid waste. Existing law requires the board to

review, at least once every 2 years, a jurisdiction's source reduction and recycling element and household hazardous waste element. The board is required to issue an order of compliance if the board finds that a jurisdiction has failed to implement its source reduction and recycling element or its household hazardous waste element, pursuant to a specified procedure. If, after issuing an order of compliance, the board finds the city, county, or regional agency has failed to make a good faith effort to implement those elements, the board is authorized to impose administrative civil penalties upon the city, county, or regional agency.

This bill would define the terms "diversion program," "jurisdiction," and "multicounty regional agency," for purposes of the act and would revise the definitions of the terms "rural city" and "rural county." The bill would delete the condition that the solid waste subject to source reduction, recycling, and composting under these provisions; be diverted from landfill disposal or transformation.

The bill would repeal the board's existing 2-year process ~~and~~. *The bill would* instead require the board to make a finding whether each jurisdiction was in compliance with the act's diversion requirements for calendar year 2006 and *to determine compliance for the 2007 calendar year, and after, based on the jurisdiction's change in its per capita disposal rate. The board would be required to* review a jurisdiction's compliance with those diversion requirements in accordance with a specified schedule, which would be conditioned upon the board finding that the jurisdiction is in compliance with those requirements or has ~~made a good faith effort to implement~~ *implemented* its source reduction and recycling element and household hazardous waste element.

The bill would require the board to issue an order of compliance if the board finds that the jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, pursuant to a specified procedure. The board would be required to comply with certain requirements; in making this determination, *including considering the extent to which the jurisdiction has maintained its per capita disposal rate.*

*The bill would repeal this review schedule on January 1, 2018, and, after that date, would require the board to review each jurisdiction's source reduction and recycling element and household hazardous waste element at least once every 2 years.*

The bill would revise the information required to be included in the jurisdiction's annual report to the board and would require the report to be submitted to the board electronically. The bill would make conforming changes regarding the compliance order and related enforcement provisions. The bill would impose a state-mandated local program by imposing new duties upon local agencies.

(2) Existing law requires each state agency, as defined, to develop and adopt, in consultation with the board, an integrated waste management plan. Each state agency and large state facility is required to divert at least 50% of the solid waste generated by the state agency or large state facility from landfill disposal or transformation facilities. "State agency" is defined, for purposes of these requirements, to include the California Community Colleges.

This bill would require the board to determine if a state agency or large state facility is in compliance with the 50% diversion requirement by comparing the annual per capita disposal rate of the state agency or large state facility with the per capita disposal rate that would be necessary to comply with the 50% diversion requirement. The board would be authorized to consider an agency's or facility's per capita disposal rate as a factor in determining whether the agency or facility is adequately implementing its integrated waste management plan.

The bill would require a community college district to ~~expend~~ *give first priority in the expenditure of* the revenues derived from the sale of recyclable materials *resulting from implementation of the district's integrated waste management plan* for the purposes of offsetting recycling program costs and to expend all cost savings that result from implementation of the district's integrated waste management plan to fund the continued implementation of the plan. ~~A community college district would also be required to expend the revenues and cost savings to offset recycling program costs incurred from the initial date when the community college district became subject to these requirements.~~ A community college district would be required to provide information to the board ~~at least~~ annually, on the quantities of recyclable materials collected for recycling, according to a schedule determined by the board and the district. The bill would impose a state-mandated local program by imposing new duties upon community colleges.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. It is the intent of the Legislature that the*  
2     *California Integrated Waste Management Board shall not consider*  
3     *a jurisdiction's per capita disposal rate to be determinative as to*  
4     *whether the jurisdiction has made a good faith effort to implement*  
5     *its source reduction and recycling element or its household*  
6     *hazardous waste element.*

7     ~~SECTION 1.~~

8     *SEC. 2. Section 40127 is added to the Public Resources Code,*  
9     *to read:*

10     40127. "Diversion program" means a program in the source  
11     reduction and recycling element of a jurisdiction's integrated waste  
12     management plan, specified in Chapter 2 (commencing with  
13     Section 41000) of, or Chapter 3 (commencing with Section 41300)  
14     of, Part 2 and that has the purpose of diverting solid waste from  
15     landfill disposal or transformation through source reduction,  
16     recycling, and composting activities. "Diversion program"  
17     additionally includes any amendments, revisions, or updates to the  
18     element, and any programs set forth in a time extension, alternative  
19     requirement, or compliance order approved by the board pursuant  
20     to Part 2 (commencing with Section 40900).

21     ~~SEC. 2. Section 40144 is added to the Public Resources Code,~~  
22     ~~to read:~~

23     ~~40144. "Jurisdiction" means a city, county, or regional agency~~  
24     ~~that is approved by the board pursuant to Section 40975.~~

25     *SEC. 3. Section 40145 is added to the Public Resources Code,*  
26     *to read:*

27     40145. "Jurisdiction" means a city, county, or regional agency  
28     that is approved by the board pursuant to Section 40975.

29     ~~SEC. 3.~~

30     *SEC. 4. Section 40150.1 is added to the Public Resources Code,*  
31     *to read:*

1 40150.1. “Multicounty regional agency” means a regional  
2 agency, as defined in Section 40181, that includes all of the  
3 jurisdictions that are located in at least two or more rural counties.

4 ~~SEC. 4.~~

5 *SEC. 5.* Section 40183 of the Public Resources Code is  
6 amended to read:

7 40183. (a) “Rural city” or “rural regional agency” means a  
8 city or regional agency that is located within a rural county as  
9 defined in Section 40184.

10 (b) (1) Unless the board takes action pursuant to paragraph (2),  
11 this section does not affect any reduction granted to a rural city by  
12 the board pursuant to Section 41787 prior to January 1, 2008.

13 (2) The board may review and take action regarding any  
14 reduction granted to a rural city by the board in accordance with  
15 subdivision (b) of Section 41787.

16 ~~SEC. 5.~~

17 *SEC. 6.* Section 40184 of the Public Resources Code is  
18 amended to read:

19 40184. (a) “Rural county” means a county or multicounty  
20 regional agency that annually disposes of no more than 200,000  
21 tons of solid waste.

22 (b) (1) Unless the board takes action pursuant to paragraph (2),  
23 this section does not affect any reduction granted to a rural county  
24 by the board pursuant to Section 41787 prior to January 1, 2008.

25 (2) The board may review and take action regarding any  
26 reduction granted to a rural county in accordance with subdivision  
27 (b) of Section 41787.

28 ~~SEC. 6. Section 41780 of the Public Resources Code is~~  
29 ~~amended to read:~~

30 ~~41780. (a) Each jurisdiction’s source reduction and recycling~~  
31 ~~element shall include an implementation schedule that shows both~~  
32 ~~of the following:~~

33 ~~(1) For the initial element, the jurisdiction shall divert 25 percent~~  
34 ~~of all solid waste by January 1, 1995, through source reduction,~~  
35 ~~recycling, and composting activities.~~

36 ~~(2) Except as provided in Sections 41783 and 41784, for the~~  
37 ~~first and each subsequent revision of the element, the jurisdiction~~  
38 ~~shall divert 50 percent of all solid waste on and after January 1,~~  
39 ~~2000, through source reduction, recycling, and composting~~  
40 ~~activities.~~

~~(b) This section does not prohibit a jurisdiction from implementing source reduction, recycling, and composting activities designed to exceed the requirements of this division.~~

SEC. 7. Section 41780.05 is added to the Public Resources Code, to read:

41780.05. (a) ~~On and after~~ *After* January 1, 2009, pursuant to the review authorized by Section 41825, the board shall determine each jurisdiction's compliance with Section 41780 for the years commencing with January 1, 2007, by comparing each jurisdiction's change in its per capita disposal rate in subsequent years with the equivalent per capita disposal rate that would have been necessary for the jurisdiction to meet the requirements of Section 41780 on January 1, 2007, as calculated pursuant to subdivisions (c) and (d).

(b) (1) For purposes of paragraph (5) of subdivision (e) of Section 41825, in making a determination whether a jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the board shall consider, but is not limited to the consideration of, the jurisdiction's per capita disposal rate and whether the jurisdiction adequately implemented its diversion programs.

(2) When determining whether a jurisdiction has made a good faith effort pursuant to Section 41825 to implement its source reduction and recycling element or its household hazardous waste element, the board shall consider that an increase in the per capita disposal rate is the result of the amount of the jurisdiction's disposal increasing faster than the jurisdiction's growth. The board shall use this increase in the per capita disposal rate that is in excess of the equivalent per capita disposal rate as a factor in determining whether the board is required, pursuant to Section 41825, to more closely examine a jurisdiction's program implementation efforts. This examination may indicate that a jurisdiction is required to expand existing programs or implement new programs, in accordance with the procedures specified in Article 4 (commencing with Section 41825) and in Article 5 (commencing with Section 41850).

(3) When reviewing the level of program implementation pursuant to Sections 41825 and 41850, the board shall use, as a factor in determining compliance with Section 41780, the amount

1 determined pursuant to subdivision (d) when comparing a  
2 jurisdiction's per capita disposal rate in subsequent years.

3 (c) (1) Except as otherwise provided in this subdivision, for  
4 purposes of this section, "per capita disposal" or "per capita  
5 disposal rate" means the total annual disposal, in pounds, from a  
6 jurisdiction divided by the total population in a jurisdiction, as  
7 reported by the Department of Finance, divided by 365 days.

8 (2) (A) If a jurisdiction is predominated by commercial or  
9 industrial activities and by solid waste generation from those  
10 sources, the board may alternatively calculate per capita disposal  
11 to reflect those differing conditions.

12 (B) When making a calculation for a jurisdiction subject to this  
13 paragraph, "per capita disposal" or "per capita disposal rate" means  
14 the total annual disposal, in pounds, from a jurisdiction divided  
15 by total industry employment in a jurisdiction, as reported by the  
16 Employment Development Department, divided by 365 days.

17 (C) The board shall calculate the per capita disposal rate for a  
18 jurisdiction subject to this paragraph using the level of industry  
19 employment in a jurisdiction instead of the level of population in  
20 a jurisdiction.

21 (3) If the board determines that the method for calculating the  
22 per capita disposal rate for a jurisdiction provided by paragraph  
23 (1) or (2) does not accurately reflect that jurisdiction's disposal  
24 reduction, the board may use an alternative ~~method of calculating~~  
25 *per capita factor, other than population or industry employment,*  
26 *to calculate* the per capita disposal rate that more accurately reflects  
27 the jurisdiction's efforts to divert solid waste.

28 (d) The board shall calculate the equivalent per capita disposal  
29 rate for each jurisdiction as follows:

30 (1) Except as otherwise provided in this subdivision, the  
31 equivalent per capita disposal rate for a jurisdiction shall be  
32 determined using the method specified in this paragraph.

33 (A) The calculated generation tonnage for each year from 2003  
34 to 2006, inclusive, shall be multiplied by 0.5 to yield the 50 percent  
35 equivalent disposal total for each year.

36 (B) The 50 percent equivalent disposal total for each year shall  
37 be multiplied by 2,000, divided by the population of the jurisdiction  
38 in that year, and then divided by 365 to yield the 50 percent  
39 equivalent per capita disposal for each year.

1 (C) The four 50 percent equivalent per capita disposal amounts  
2 from the years 2003 to 2006, inclusive, shall be averaged to yield  
3 the equivalent per capita disposal rate.

4 (2) If a jurisdiction is predominated by commercial or industrial  
5 activities and by solid waste generation from those sources, the  
6 board may alternatively calculate the equivalent per capita disposal  
7 rate to reflect those conditions by using the level of industry  
8 employment in a jurisdiction instead of the level of population in  
9 that jurisdiction.

10 (3) If the board determines that the method for ~~collecting~~  
11 *calculating* the equivalent per capita disposal rate for a jurisdiction  
12 pursuant to this subdivision does not accurately reflect a  
13 jurisdiction's per capita disposal rate that would be equivalent to  
14 the amount required to meet the 50 percent diversion requirements  
15 of Section 41780, the board may use an alternative ~~method for~~  
16 *calculating per capita factor, other than population or industry*  
17 *employment, to calculate* the equivalent per capita disposal rate  
18 that more accurately reflects the jurisdiction's diversion efforts.

19 (4) The board shall modify the percentage used in paragraph  
20 (1) to maintain the diversion requirements approved by the board  
21 for a rural jurisdiction pursuant to Section 41787 *or for a reduction*  
22 *granted pursuant to Section 41786.*

23 (5) The board may modify the years included in making a  
24 calculation pursuant to this subdivision for an individual  
25 jurisdiction to eliminate years in which the calculated generation  
26 amount is shown not to be representative or accurate, based upon  
27 a generation study completed in one of the ~~four years 2003 to 2006~~  
28 *five years 2003 to 2007*, inclusive. In these cases, the board shall  
29 not allow the use of an additional year other than 2003, 2004, 2005,  
30 ~~or 2006~~ *2006, or 2007.*

31 (6) The board may modify the method of calculating the  
32 equivalent per capita disposal rate for an individual jurisdiction to  
33 accommodate the incorporation of a new city, the formation of a  
34 new regional agency, or changes in membership of an existing  
35 regional agency. These modifications shall ensure that a new entity  
36 has a new equivalent per capita disposal rate and that the existing  
37 per capita disposal rate of an existing entity is adjusted to take into  
38 account the disposal amounts lost by the creation of the new entity.

39 (7) The board shall not incorporate generation studies or new  
40 ~~base year calculation~~ *calculations* for a year commencing after



1 2006 into the equivalent per capita disposal rate, *unless a*  
2 *generation study that included the year 2007 was commenced on*  
3 *or before June 30, 2008.*

4 (8) If the board determines that the equivalent per capita disposal  
5 rate cannot accurately be determined for a jurisdiction, or that the  
6 rate is no longer representative of a jurisdiction's waste stream,  
7 the board shall evaluate trends in the jurisdiction's per capita  
8 disposal to establish a revised equivalent per capita disposal rate  
9 for that jurisdiction.

10 SEC. 8. Section 41783 of the Public Resources Code is  
11 amended to read:

12 41783. (a) For a jurisdiction's source reduction and recycling  
13 element submitted to the board after January 1, 1995, and on or  
14 before January 1, 2009, the 50 percent diversion requirement  
15 specified in paragraph (2) of subdivision (a) of Section 41780 may  
16 include not more than 10 percent through transformation, as defined  
17 in Section 40201, if all of the following conditions are met:

18 (1) The transformation project is in compliance with Sections  
19 21151.1 and 44150 of this code and Section 42315 of the Health  
20 and Safety Code.

21 (2) The transformation project uses front-end methods or  
22 programs to remove all recyclable materials from the waste stream  
23 prior to transformation to the maximum extent feasible.

24 (3) The ash or other residue generated from the transformation  
25 project is routinely tested at least once quarterly, or on a more  
26 frequent basis as determined by the agency responsible for  
27 regulating the testing and disposal of the ash or residue, and,  
28 notwithstanding Section 25143.5 of the Health and Safety Code,  
29 if hazardous wastes are present, the ash or residue is sent to a class  
30 1 hazardous waste disposal facility.

31 (4) The board holds a public hearing in the city, county, or  
32 regional agency jurisdiction within which the transformation  
33 project is proposed, and, after the public hearing, the board makes  
34 both of the following findings, based upon substantial evidence  
35 on the record:

36 (A) The city, county, or regional agency is, and will continue  
37 to be, effectively implementing all feasible source reduction,  
38 recycling, and composting measures.

39 (B) The transformation project will not adversely affect public  
40 health and safety or the environment.

1 (5) The transformation facility is permitted and operational on  
2 or before January 1, 1995.

3 (6) The city, county, or regional agency does not include  
4 biomass conversion, as authorized pursuant to Section 41783, in  
5 its source reduction and recycling element.

6 (b) On and after January 1, 2009, for purposes of the review  
7 authorized by Section 41825, with regard to a jurisdiction's  
8 compliance with Section 41780 for each year commencing January  
9 1, 2007, the board may reduce the per capita disposal rate for a  
10 jurisdiction, as calculated pursuant to subdivision (d) of Section  
11 41780.05, by no more than 10 percent of the average of the  
12 calculated per capita generation tonnage amount ~~that is subject to~~  
13 ~~transformation pursuant to this section.~~, *if the jurisdiction otherwise*  
14 *meets the substantive requirements specified in paragraphs (1) to*  
15 *(6), inclusive, of subdivision (a), for solid waste to be included as*  
16 *diversion for purposes of that subdivision.*

17 SEC. 9. Section 41820.6 of the Public Resources Code is  
18 amended to read:

19 41820.6. (a) In addition to its authority under Section 41820,  
20 the board may, after a public hearing, grant a time extension from  
21 the requirements of Section 41780 to a city if both of the following  
22 conditions exist:

23 (1) The city was incorporated pursuant to Division 3  
24 (commencing with Section 56000) of Title 5 of the Government  
25 Code on or after January 1, 2001.

26 (2) The county within which the city is located did not include  
27 provisions in its franchises that ensured that the now incorporated  
28 area would comply with the requirements of Section 41780.

29 (b) The board may authorize a city that meets the requirements  
30 of subdivision (a) to submit a source reduction and recycling  
31 element that includes an implementation schedule that shows that  
32 the city shall comply with the requirements of Section 41780,  
33 within three years from the date on which the source reduction  
34 and recycling element is due pursuant to subdivision (b) of Section  
35 41791.5, through source reduction, recycling, and composting  
36 activities.

37 SEC. 10. Section 41821 of the Public Resources Code is  
38 amended to read:

39 41821. (a) (1) Each year following the board's approval of a  
40 jurisdiction's source reduction and recycling element, household

1 hazardous waste element, and nondisposal facility element, the  
2 jurisdiction shall submit a report to the board summarizing its  
3 progress in reducing solid waste as required by Section 41780, in  
4 accordance with the schedule set forth in this subdivision.

5 (2) The annual report shall be due on or before August 1 of the  
6 year following board approval of the source reduction and recycling  
7 element, the household hazardous waste element, and the  
8 nondisposal facility element, and on or before August 1 in each  
9 subsequent year. The information in this report shall encompass  
10 the previous calendar year, January 1 to December 31, inclusive.

11 (b) Each jurisdiction's annual report to the board shall, at a  
12 minimum, include the following:

13 (1) Calculations of annual disposal reduction.

14 (2) A summary of progress made in implementing the source  
15 reduction and recycling element and the household hazardous  
16 waste element.

17 (3) An update of the jurisdiction's source reduction and  
18 recycling element and household hazardous waste element to  
19 include any new or expanded programs the jurisdiction has  
20 implemented or plans to implement.

21 (4) An update of the jurisdiction's nondisposal facility element  
22 to reflect any new or expanded nondisposal facilities the  
23 jurisdiction is using or planning to use.

24 (5) A summary of progress made in diversion of construction  
25 and demolition of waste material, including information on  
26 programs and ordinances implemented by the local government  
27 and quantitative data, where available.

28 (6) Other information relevant to compliance with Section  
29 41780.

30 (c) A jurisdiction may also include, in the report required by  
31 this section, all of the following:

32 (1) Information on disposal reported pursuant to Section 41821.5  
33 that the jurisdiction believes may be relevant to the board's  
34 determination of the jurisdiction's per capita disposal rate.

35 (2) Disposal characterization studies or other completed studies  
36 that show the effectiveness of the programs being implemented.

37 (3) Factors that the jurisdiction believes would affect the  
38 accuracy of, or mitigate the amount of, solid waste disposed by  
39 the jurisdiction, including, but not limited to, either of the  
40 following:

1 (A) Whether the jurisdiction hosts a solid waste facility or  
2 regional diversion facility.

3 (B) The effects of self-hauled waste and construction and  
4 demolition waste.

5 (4) The extent to which the jurisdiction previously relied on  
6 biomass diversion credit and the extent to which it may be impacted  
7 by the lack of the credit.

8 (5) Information regarding the programs the jurisdiction is  
9 undertaking to address specific disposal challenges, and why it is  
10 not feasible to implement programs to respond to other factors that  
11 affect the amount of waste that is disposed.

12 (6) Other information that describes the good faith efforts of  
13 the jurisdiction to comply with Section 41780.

14 (d) The board shall use, but is not limited to the use of, the  
15 annual report in the determination of whether the jurisdiction's  
16 source reduction and recycling element needs to be revised or  
17 updated.

18 (e) (1) The board shall adopt procedures for requiring additional  
19 information in a jurisdiction's annual report. The procedures shall  
20 require the board to notify a jurisdiction of any additional required  
21 information no later than 120 days after the board receives the  
22 report from the jurisdiction.

23 (2) Paragraph (1) does not prohibit the board from making  
24 additional requests for information in a timely manner. A  
25 jurisdiction receiving a request for information shall respond in a  
26 timely manner.

27 (3) If the schedule for the submission of an annual report by a  
28 jurisdiction does not correspond with the scheduled review by the  
29 board specified in subdivision (a) of Section 41825, the board shall  
30 utilize the information contained in the annual report ~~only~~ to assist  
31 the board in providing technical assistance and ~~informally~~  
32 reviewing the jurisdiction's diversion program implementation.  
33 ~~The board is not required to otherwise review the annual report~~  
34 ~~for those years that are in addition to the review required by~~  
35 ~~subdivision (a) of Section 41825.~~

36 (f) The board shall adopt procedures for conferring with a  
37 jurisdiction regarding the implementation of its diversion programs.

38 (g) Notwithstanding the Uniform Electronic Transactions Act  
39 (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division  
40 3 of the Civil Code), a jurisdiction shall submit the progress report

1 required by this section to the board electronically, using the  
2 board's electronic reporting format system.

3 (h) Notwithstanding the reporting schedule required by this  
4 section, and in addition to the review required by Section 41825,  
5 the board shall visit each jurisdiction not less than once each year  
6 to monitor the jurisdiction's implementation and maintenance of  
7 its diversion programs.

8 SEC. 11. The heading of Article 4 (commencing with Section  
9 41825) of Chapter 7 of Part 2 of Division 30 of the Public  
10 Resources Code is amended to read:

11  
12 Article 4. Review and Compliance Orders  
13

14 SEC. 12. Section 41825 of the Public Resources Code is  
15 repealed.

16 SEC. 13. Section 41825 is added to the Public Resources Code,  
17 to read:

18 41825. (a) ~~The~~ *Using the information in the report submitted*  
19 *to the board by the jurisdiction pursuant to Section 41821 and any*  
20 *other relevant information, the* board shall make a finding whether  
21 each jurisdiction was in compliance with Section 41780 for  
22 calendar year 2006 and shall review a jurisdiction's compliance  
23 with Section 41780 in accordance with the following schedule:

24 (1) If the board makes a finding that the jurisdiction was in  
25 compliance with Section 41780 for calendar year 2006, the board  
26 shall review, commencing January 1, 2012, and at least once every  
27 four years thereafter, whether the jurisdiction has ~~made a good~~  
28 ~~faith effort to implement~~ *implemented* its source reduction and  
29 recycling element and household hazardous waste element.

30 (2) If the board makes a finding that the jurisdiction ~~did not~~  
31 ~~meet the requirements of Section 41780 for calendar year 2006 or~~  
32 ~~for any other subsequent calendar year, but made a good faith~~  
33 *made a good faith* effort to implement its source reduction and  
34 recycling element and household hazardous waste element, the  
35 board shall review, commencing January 1, 2010, and at least once  
36 every two years thereafter, whether the jurisdiction has ~~made a~~  
37 ~~good faith effort to implement~~ *implemented* its source reduction  
38 and recycling element and household hazardous waste element.

39 (3) If the board makes a finding that the jurisdiction was not in  
40 compliance with Section 41780 for calendar year 2006 or for any

1 subsequent—calendar calendar year, the board shall review,  
2 commencing January 1, 2010, and at least once every two years  
3 thereafter, whether the jurisdiction has ~~made a good faith effort to~~  
4 ~~implement~~ *implemented* its source reduction and recycling element  
5 and household hazardous waste element.

6 (4) If, *after determining that a jurisdiction is subject to*  
7 *paragraph (2), or, if, after determining that a jurisdiction is not in*  
8 *compliance with Section 41780 and is subject to paragraph (2) or*  
9 *(3), the board subsequently determines that the jurisdiction has*  
10 *come into compliance with Section 41780, the board shall review,*  
11 *at least once every four years, whether the jurisdiction has ~~made~~*  
12 *~~a good faith effort to implement~~ implemented* its source reduction  
13 and recycling element and household hazardous waste in the same  
14 manner as a jurisdiction that is subject to paragraph (1).

15 (5) *If, after determining that a jurisdiction is in compliance with*  
16 *Section 41780 and is subject to paragraph (1), the board*  
17 *subsequently determines that the jurisdiction is not in compliance*  
18 *with Section 41780, the board shall review, at least once every*  
19 *two years, whether the jurisdiction has implemented its source*  
20 *reduction and recycling element and household hazardous waste*  
21 *element in the same manner as a jurisdiction that is subject to*  
22 *paragraph (2) or (3).*

23 (b) In addition to the requirements of subdivision (a), the board  
24 may review whether a jurisdiction is in compliance with Section  
25 41780 in accordance with the requirements of this section at any  
26 time that the board receives information that indicates the  
27 jurisdiction may not be making a good faith effort to implement  
28 its source reduction and recycling element and household hazardous  
29 waste element.

30 (c) (1) Before issuing a compliance order pursuant to  
31 subdivision (d), the board shall confer with the jurisdiction  
32 regarding conditions relating to the proposed order of compliance,  
33 with a first meeting occurring not less than 60 days before issuing  
34 a notice of intent to issue an order of compliance.

35 (2) The board shall issue a notice of intent to issue an order of  
36 compliance not less than 30 days before the board holds a hearing  
37 to issue the notice of compliance. The notice of intent shall specify  
38 all of the following:

39 (A) The proposed basis for issuing an order of compliance.

1 (B) The proposed actions the board recommends are necessary  
2 for the jurisdiction to complete to implement its source reduction  
3 and recycling element or household hazardous waste element.

4 (C) The proposed recommendations to the board.

5 (3) The board shall consider any information provided pursuant  
6 to subdivision (c) of Section 41821 if the proposed issuance of an  
7 order of compliance involves changes to a jurisdiction's calculation  
8 of annual disposal.

9 (d) (1) If, after holding a public hearing, which, to the extent  
10 possible, shall be held in the local or regional agency's jurisdiction,  
11 the board finds that a jurisdiction has failed to make a good faith  
12 effort to implement its source reduction and recycling element or  
13 its household hazardous waste element, the board shall issue an  
14 order of compliance with a specific schedule for achieving  
15 compliance.

16 (2) The compliance order shall include those conditions that the  
17 board determines to be necessary for the jurisdiction to implement  
18 its diversion programs.

19 (3) In addition to considering the good faith efforts of a  
20 jurisdiction, as specified in subdivision (e), to implement a  
21 diversion program, the board shall consider ~~all~~ *both* of the  
22 following factors in determining whether or not to issue a  
23 compliance order:

24 ~~(A) The rural nature of the jurisdiction.~~

25 ~~(B)~~

26 (A) Whether an exceptional growth rate may have affected  
27 compliance.

28 ~~(C)~~

29 (B) Other information that the jurisdiction may provide that  
30 indicates the effectiveness of the jurisdiction's programs, such as  
31 disposal characterization studies or other jurisdiction specific  
32 information.

33 (e) For purposes of making a determination pursuant to this  
34 section whether a jurisdiction has failed to make a good faith effort  
35 to implement its source reduction and recycling element or its  
36 household hazardous waste element, the board shall consider all  
37 of the following criteria:

38 (1) For the purposes of this section, "good faith effort" means  
39 all reasonable and feasible efforts by a jurisdiction to implement  
40 those programs or activities identified in its source reduction and

1 recycling element or household hazardous waste element, or  
2 alternative programs or activities that achieve the same or similar  
3 results.

4 (2) For purposes of this section, “good faith effort” may also  
5 include the evaluation by a jurisdiction of improved technology  
6 for the handling and management of solid waste that would reduce  
7 costs, improve efficiency in the collection, processing, or marketing  
8 of recyclable materials or yard waste, and enhance the ability of  
9 the jurisdiction to adequately address all sources of significant  
10 disposal, the submission by the jurisdiction of a compliance  
11 schedule, and the ~~undertakers~~ *undertaking* of all other reasonable  
12 and feasible efforts to implement the programs identified in the  
13 jurisdiction’s source reduction and recycling element or household  
14 hazardous waste element.

15 (3) In determining whether a jurisdiction has made a good faith  
16 effort, the board shall consider the enforcement criteria included  
17 in its enforcement policy, as adopted on April 25, 1995, or as  
18 subsequently amended.

19 (4) The board shall consider all of the following when  
20 considering whether a jurisdiction has made a good faith effort to  
21 implement its source reduction and recycling element or its  
22 household hazardous waste element:

23 (A) Natural disasters.

24 (B) Budgetary conditions within a jurisdiction that could not  
25 be remedied by the imposition or adjustment of solid waste fees.

26 (C) Work stoppages that directly prevent a jurisdiction from  
27 implementing its source reduction and recycling element or  
28 household hazardous waste element.

29 (D) The impact of the failure of federal, state, and other local  
30 agencies located within the jurisdiction to implement source  
31 reduction and recycling programs in the jurisdiction.

32 (E) The extent to which the jurisdiction has implemented  
33 additional source reduction, recycling, and composting activities.

34 (F) The extent to which the jurisdiction has made program  
35 implementation choices driven by considerations related to other  
36 environmental issues, including climate change.

37 (G) Whether the jurisdiction has provided information to the  
38 board concerning whether construction and demolition waste  
39 material is at least a moderately significant portion of the waste  
40 stream, and, if so, whether the local jurisdiction has adopted an



1 ordinance for diversion of construction and demolition waste  
2 materials from solid waste disposal facilities, has adopted a model  
3 ordinance pursuant to subdivision (a) of Section 42912 for  
4 diversion of construction and demolition waste materials from  
5 solid waste disposal facilities, or has implemented another program  
6 to encourage or require diversion of construction and demolition  
7 waste materials from solid waste disposal facilities.

8 (H) The extent to which the jurisdiction has implemented  
9 programs to comply with Section 41780 and to maintain its per  
10 capita disposal rate.

11 (5) In making a determination whether a jurisdiction has made  
12 a good faith effort, pursuant to this section, the board may consider  
13 a jurisdiction's per capita disposal rate as a factor in determining  
14 whether the jurisdiction adequately implemented its diversion  
15 programs. The board shall not consider a jurisdiction's per capita  
16 disposal rate to be determinative as to whether the jurisdiction has  
17 made a good faith effort to implement its source reduction and  
18 recycling element or its household hazardous waste element.

19 *(f) This section shall remain in effect only until January 1, 2018,*  
20 *and as of that date is repealed, unless a later enacted statute, that*  
21 *is enacted before January 1, 2018, deletes or extends that date.*

22 SEC. 14. Section 41825 is added to the Public Resources Code,  
23 to read:

24 41825. (a) At least once every two years, the board shall  
25 review each jurisdiction's source reduction and recycling element  
26 and household hazardous waste element for compliance with  
27 Section 41780.

28 (b) In addition to the requirements of subdivision (a), the board  
29 may review whether a jurisdiction is in compliance with Section  
30 41780 in accordance with the requirements of this section at any  
31 time that the board receives information that indicates the  
32 jurisdiction may not be making a good faith effort to implement  
33 its source reduction and recycling element and household  
34 hazardous waste element.

35 (c) (1) Before issuing a compliance order pursuant to  
36 subdivision (d), the board shall confer with the jurisdiction  
37 regarding conditions relating to the proposed order of compliance,  
38 with a first meeting occurring not less than 60 days before issuing  
39 a notice of intent to issue an order of compliance.

1     (2) *The board shall issue a notice of intent to issue an order of*  
2 *compliance not less than 30 days before the board holds a hearing*  
3 *to issue the notice of compliance. The notice of intent shall specify*  
4 *all of the following:*

5     (A) *The proposed basis for issuing an order of compliance.*

6     (B) *The proposed actions the board recommends are necessary*  
7 *for the jurisdiction to complete the implementation of its source*  
8 *reduction and recycling element or household hazardous waste*  
9 *element.*

10    (C) *The proposed recommendations to the board.*

11    (3) *The board shall consider any information provided pursuant*  
12 *to subdivision (c) of Section 41821, if the proposed issuance of an*  
13 *order of compliance involves changes to a jurisdiction's calculation*  
14 *of annual disposal.*

15    (d) (1) *If, after holding a public hearing, which, to the extent*  
16 *possible, shall be held in the local or regional agency's*  
17 *jurisdiction, the board finds that a jurisdiction has failed to make*  
18 *a good faith effort to implement its source reduction and recycling*  
19 *element or its household hazardous waste element, the board shall*  
20 *issue an order of compliance with a specific schedule for achieving*  
21 *compliance.*

22    (2) *The compliance order shall include those conditions that*  
23 *the board determines to be necessary for the jurisdiction to*  
24 *implement its diversion programs.*

25    (3) *In addition to considering the good faith efforts of a*  
26 *jurisdiction, as specified in subdivision (e), to implement a*  
27 *diversion program, the board shall consider all of the following*  
28 *factors in determining whether or not to issue a compliance order:*

29    (A) *Whether an exceptional growth rate may have affected*  
30 *compliance.*

31    (B) *Other information that the jurisdiction may provide that*  
32 *indicates the effectiveness of the jurisdiction's programs, such as*  
33 *disposal characterization studies or other jurisdiction specific*  
34 *information.*

35    (e) *For purposes of making a determination pursuant to this*  
36 *section as to whether a jurisdiction has failed to make a good faith*  
37 *effort to implement its source reduction and recycling element or*  
38 *its household hazardous waste element, the board shall consider*  
39 *all of the following criteria:*

1     (1) For the purposes of this section, “good faith effort” means  
2     all reasonable and feasible efforts by a jurisdiction to implement  
3     those programs or activities identified in its source reduction and  
4     recycling element or household hazardous waste element, or  
5     alternative programs or activities that achieve the same or similar  
6     results.

7     (2) For purposes of this section, “good faith effort” may also  
8     include the evaluation by a jurisdiction of improved technology  
9     for the handling and management of solid waste that would reduce  
10    costs, improve efficiency in the collection, processing, or marketing  
11    of recyclable materials or yard waste, and enhance the ability of  
12    the jurisdiction to adequately address all sources of significant  
13    disposal, the submission by the jurisdiction of a compliance  
14    schedule, and the undertaking of all other reasonable and feasible  
15    efforts to implement the programs identified in the jurisdiction’s  
16    source reduction and recycling element or household hazardous  
17    waste element.

18    (3) In determining whether a jurisdiction has made a good faith  
19    effort, the board shall also consider the enforcement criteria  
20    included in its enforcement policy, as adopted on April 25, 1995,  
21    or as subsequently amended.

22    (4) The board shall consider all of the following when  
23    considering whether a jurisdiction has made a good faith effort  
24    to implement its source reduction and recycling element or its  
25    household hazardous waste element:

26    (A) Natural disasters.

27    (B) Budgetary conditions within a jurisdiction that could not  
28    be remedied by the imposition or adjustment of solid waste fees.

29    (C) Work stoppages that directly prevent a jurisdiction from  
30    implementing its source reduction and recycling element or  
31    household hazardous waste element.

32    (D) The impact of the failure of federal, state, and other local  
33    agencies located within the jurisdiction to implement source  
34    reduction and recycling programs in the jurisdiction.

35    (E) The extent to which the jurisdiction has implemented  
36    additional source reduction, recycling, and composting activities.

37    (F) The extent to which the jurisdiction has made program  
38    implementation choices driven by considerations related to other  
39    environmental issues, including climate change.

(G) Whether the jurisdiction has provided information to the board concerning whether construction and demolition waste material is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for diversion of construction and demolition waste materials from solid waste disposal facilities, has adopted a model ordinance pursuant to subdivision (a) of Section 42912 for diversion of construction and demolition waste materials from solid waste disposal facilities, or has implemented another program to encourage or require diversion of construction and demolition waste materials from solid waste disposal facilities.

(H) The extent to which the jurisdiction has implemented programs to comply with Section 41780 and to maintain its per capita disposal rate.

(5) In making a determination whether a jurisdiction has made a good faith effort, pursuant to this section, the board may consider a jurisdiction's per capita disposal rate as a factor in determining whether the jurisdiction adequately implemented its diversion programs. The board shall not consider a jurisdiction's per capita disposal rate to be determinative as to whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element.

(f) This section shall become operative on January 1, 2018.

~~SEC. 14.~~

SEC. 15. The heading of Article 5 (commencing with Section 41850) of Chapter 7 of Part 2 of Division 30 of the Public Resources Code is amended to read:

#### Article 5. Enforcement and Penalties

~~SEC. 15.~~

SEC. 16. Section 41850 of the Public Resources Code is amended to read:

41850. (a) Except as specifically provided in Section 41813, if, after holding the public hearing and issuing an order of compliance pursuant to Section 41825, the board finds that the jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the board may impose administrative civil penalties upon the city or county or, pursuant to Section 40974, upon the

1 city or county as a member of a regional agency, of up to ten  
2 thousand dollars (\$10,000) per day until the jurisdiction implements  
3 the element.

4 (b) In determining whether or not to impose any penalties, or  
5 in determining the amount of any penalties imposed under this  
6 section, including any penalties imposed due to the exclusion of  
7 solid waste pursuant to Section 41781.2 that results in a reduction  
8 in the quantity of solid waste diverted by a jurisdiction, the board  
9 shall consider whether the jurisdiction has made a good faith effort  
10 to implement its source reduction and recycling element or its  
11 household hazardous waste element. In addition, the board shall  
12 consider only those relevant circumstances that have prevented a  
13 jurisdiction from meeting the requirements of this division,  
14 including, but not limited to, the factors described in subdivisions  
15 (d) and (e) of Section 41825.

16 ~~SEC. 16.~~

17 *SEC. 17.* Section 42921 of the Public Resources Code is  
18 amended to read:

19 42921. (a) Each state agency and each large state facility shall  
20 divert at least 25 percent of all solid waste generated by the state  
21 agency by January 1, 2002, through source reduction, recycling,  
22 and composting activities.

23 (b) On and after January 1, 2004, each state agency and each  
24 large state facility shall divert at least 50 percent of all solid waste  
25 through source reduction, recycling, and composting activities.

26 ~~SEC. 17.~~

27 *SEC. 18.* Section 42921.5 is added to the Public Resources  
28 Code, to read:

29 42921.5. (a) ~~On and after~~ *After* January 1, 2009, the board  
30 shall determine each state agency's or a large state facility's  
31 compliance with Section 42921, for each year, commencing with  
32 January 1, 2007, by comparing the per capita disposal rate in  
33 subsequent years with the equivalent per capita disposal rate that  
34 would have been necessary for the state agency or large state  
35 facility to comply with Section 42921 on January 1, 2007, as  
36 calculated pursuant to subdivision (d).

37 (b) In making a determination whether a state agency or large  
38 state facility is in compliance with the requirements of Section  
39 42921, the board may consider an agency's or facility's per capita  
40 disposal rate as a factor in determining whether the state agency

1 or large state facility is adequately implementing its integrated  
2 waste management plan. The board shall not consider a state,  
3 agency, or large state facility's per capita disposal rate to be  
4 determinative when considering whether the ~~agency's~~ agency or  
5 facility is implementing its integrated waste management plan.

6 (c) When determining whether an agency or facility is in  
7 compliance with Section 42921, the board shall consider that an  
8 increase in the per capita disposal rate is a result of disposal  
9 amounts increasing faster than the growth of the state agency or  
10 large state facility. The board shall use an increase in the per capita  
11 disposal rate that is in excess of the equivalent per capita disposal  
12 rate as a factor in determining whether the board is required to  
13 more closely examine the agency's or facility's plan  
14 implementation efforts. If indicated by this examination, the board  
15 may require a state agency or large state facility to expand existing  
16 programs or implement new programs.

17 (d) (1) Except as provided in paragraph (2), "per capita  
18 disposal" or "per capita disposal rate" means the total annual  
19 disposal by a state agency or large state facility, in pounds, divided  
20 by total number of employees in that state agency or large state  
21 facility, and divided by 365 days.

22 (2) The board may alternatively define per capita disposal or  
23 per capita disposal rate for a state agency or large state facility that  
24 has a significant amount of disposal from nonemployees or for  
25 other reasons that would make calculation of per capita disposal  
26 by the number of employees inaccurate.

27 ~~SEC. 18.~~

28 *SEC. 19.* Section 42926 of the Public Resources Code is  
29 amended to read:

30 42926. (a) In addition to the information provided to the board  
31 pursuant to Section 12167.1 of the Public Contract Code, each  
32 state agency shall submit an annual report to the board summarizing  
33 its progress in reducing solid waste as required by Section 42921.  
34 The annual report shall be due on or before September 1, 2009,  
35 and on or before September 1 in each subsequent year. The  
36 information in this report shall encompass the previous calendar  
37 year.

38 (b) Each state agency's annual report to the board shall, at a  
39 minimum, include all of the following:

40 (1) Calculations of annual disposal reduction.

(2) Information on the changes in waste generated or disposed of due to increases or decreases in employees, economics, or other factors.

(3) A summary of progress made in implementing the integrated waste management plan.

(4) The extent to which the state agency intends to utilize programs or facilities established by the local agency for the handling, diversion, and disposal of solid waste. If the state agency does not intend to utilize those established programs or facilities, the state agency shall identify sufficient disposal capacity for solid waste that is not source reduced, recycled, or composted.

(5) Other information relevant to compliance with Section 42921.

(c) The board shall use, but is not limited to the use of, the annual report in the determination of whether the agency's integrated waste management plan needs to be revised.

~~SEC. 19.~~

*SEC. 20.* Section 42927 is added to the Public Resources Code, to read:

~~42927. (a) Notwithstanding Section 12167 of the Public Contract Code, a community college district shall expend the~~

*42927. (a) A community college district shall give first priority for the expenditure of the revenues derived from the sale of recyclable materials resulting from the implementation of the district's integrated waste management plan for the purposes of offsetting the recycling program costs imposed pursuant to this chapter.*

(b) A community college district shall expend all cost savings that result from implementation of the district's integrated waste management plan pursuant to this chapter to fund the continued implementation of the plan *consistent with the requirement that revenues from the sale of recyclable materials be used to offset recycling program costs, as specified in Sections 12167 and 12167.1 of the Public Contract Code.*

~~(c) A community college district shall expend the revenues and cost savings specified in subdivisions (a) and (b) to offset recycling program costs incurred pursuant to this chapter from the initial date when the community college district became subject to this chapter.~~

~~(d)~~

1 (c) A community college district shall provide information on  
2 the quantities of recyclable materials collected for recycling—at  
3 least annually to the board, according to a schedule determined by  
4 the board and the district.

5 ~~SEC. 20.~~

6 *SEC. 21.* No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 a local agency or school district has the authority to levy service  
9 charges, fees, or assessments sufficient to pay for the program or  
10 level of service mandated by this act or because the act provides  
11 for offsetting savings to local agencies or school districts that result  
12 in no net costs to the local agencies or school districts, within the  
13 meaning of Section 17556 of the Government Code.

14  
15  
16 **CORRECTIONS:** \_\_\_\_\_

17 **Text—Pages 13 and 24.** \_\_\_\_\_  
18